

Remarks Regarding Claims 40, 41 and 56

Applicant respectfully traverses the rejections under 35 USC 102 of Claims 40, 41 and 56. In order for a reference to anticipate a claim, the reference must disclose each and every limitation of the claimed invention, either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation. See *Atlas Powder Co. v. Ireco Inc.*, 190 F.3d 1342, 1347, 51 USPQ2d 1943, 1947 (Fed. Cir. 1999); *In re Paulsen*, 30 F.3d 1475, 1479, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Claim 40 is allowable over the prior art of record for at least the reason that it requires the step of “receiving a beacon signal from one of the plurality of broadcast originating points at the digital broadcast receiver, said beacon signal providing transmission characteristics of said plurality of broadcast origination points.”

Claim 40 (emphasis added). On Page 7 of the Office Action, Examiner states:

“Rajakarunanayake discloses the instant inventions is implemented using DirectPC equipment supplied by Hughes Satellite System. Thus, the claimed limitation is inherent for DirectPC system, there is a beacon signal for tracking as well as doing the maintenance to the satellite receiver at a user premise.”

Based on the limited information provided by the Examiner, it is believed that the Examiner has failed to establish a *prima facie* case of anticipation. Examiner must establish that the beacon signal of the prior art provides “transmission characteristics of said plurality of broadcast origination points.” Claim 40 (emphasis added). While not fully described by the Examiner, it is believed that the reference to a “tracking” beacon signal inherently provides information only about the transmission source—not characteristics for the plurality of transmission sources. Applicant submits that the Examiner has failed to appreciate the requirement that the beacon signal provide information on the *plurality* of transmission sources. For at least this reason, it is believed that Claim 40 is allowable over the prior art of record.

Claim 41, which depends from Claim 40, is allowable for at least the same reason. Of course, if Claim 40 is allowable, then Claims 42-49 are allowable without the need to rewrite them in independent form.

Claim 56 includes similar language ("a beacon signal that provides transmission characteristics of said digital broadcast origination points."), and for the same reasons, Applicant submits that Claim 56 is allowable over the prior art.

Remarks Regarding Claim 27

Based on the undersigned's review of the Office Action, Claim 27 does not appear to be the subject to any pending rejection and/or objection. Applicant submits that Claim 27 is allowable at least for the reason that Claim 27 requires "including a vacate instruction in said digital broadcast that instructs one or more of the client computer systems to stop listening to one of the plurality of broadcast origination points and to identify a different one of the plurality of broadcast origination points to start listening to; and receiving a routing information update from one of the client computer systems, said routing information update requesting future digital broadcasts from the identified different one of the plurality of broadcast origination points." Accordingly, Applicant has rewritten claims 27 in independent form, incorporating the limitations of claim 24.

Respectfully submitted,
WILEY REIN & FIELDING LLP

By: 
Floyd B. Chapman, No. 40,555

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Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006
Telephone: (202) 719-7000
Facsimile: (202) 719-7049